

MINUTES OF THE MEETING OF
THE BOARD OF COSMETOLOGY, ELECTROLOGY, ESTHETICS,
NAIL TECHNOLOGY, AND BODY ART

January 9, 2017

1. ROLL CALL

The meeting of the Board of Cosmetology, Electrology, Esthetics, Nail Technology, and Body Art was called to order by the Chairperson, Becky Pettigrew, at 10:32 a.m., in Lower Level Conference Room B, Nebraska State Office Building, Lincoln, Nebraska. Copies of the agenda were mailed to the Board members and other interested parties in accordance with the Public Meeting Law.

The following members answered roll call:

Bridget Anderson	-	Member
Sandra Christie	-	Member
Vicki Criswell	-	Secretary
Lyra Faltys	-	Member
Melanie Judkins	-	Vice-Chair
Becky Pettigrew	-	Chair
Pam Rowland	-	Member
<u>Members Absent:</u>		
Ann Casement	-	Member
David Newson	-	Member (entered meeting at 10:33 a.m.)
<u>Others Present:</u>		
Ami Huff, Assistant Attorney General		
Dennis Scott, Investigator		
Mark Meyerson, Investigator		
Kris Chiles, Program Manager, Licensure Unit		
Nancy Herdman, Health Licensing Coordinator, Licensure Unit		

A quorum was present and the meeting convened.

2. ADOPTION OF AGENDA

MOTION: Anderson moved, seconded by Faltys, to adopt the agenda. A roll call vote was taken. Voting aye: Anderson, Christie, Criswell, Faltys, Judkins, Pettigrew, Rowland (7). Voting nay: None (0). Absent: Casement, Newson (2). Motion carried.

3. APPROVAL OF MINUTES (11-7-16, 12-5-16 conference call)

Rowland stated on page 4 of the November minutes that she abstained on the Benton motion.

10:33 a.m. - Newson entered meeting

MOTION: Faltys moved, seconded by Anderson, to approve the minutes of 11-7-16 as corrected. A roll call vote was taken. Voting aye: Anderson, Christie, Criswell, Faltys, Judkins, Newson, Pettigrew, Rowland (8). Voting nay: None (0). Abstain: None (0). Absent: Casement (1). Motion carried.

MOTION: Faltys moved, seconded by Anderson, to approve the minutes of 12-5-16. A roll call vote was taken. Voting aye: Anderson, Christie, Criswell, Faltys, Judkins, Newson, Pettigrew, Rowland (8). Voting nay: None (0). Abstain: None (0). Absent: Casement (1). Motion carried.

4. INVESTIGATIONAL & CONFIDENTIAL INFORMATION/REPORTS – CLOSED SESSION

MOTION: Faltys moved, seconded by Christie, to enter into closed session at 10:35 a.m. for the purpose of hearing discussions of a confidential nature and for the prevention of needless injury to the reputation of the individuals. A roll call vote was taken. Voting aye: Anderson, Christie, Criswell, Faltys, Judkins, Newson, Pettigrew, Rowland (8). Voting nay: None (0). Absent: Casement (1). Motion carried.

11:23 a.m. - Scott and Meyerson departed meeting
 12:16 p.m. - Huff departed meeting
 12:25 p.m. - Break
 12:37 p.m. - Meeting resumed
 CJ Johnson, Department attorney, entered meeting

MOTION: Newson moved, seconded by Faltys, to return to open session at 12:52 p.m. A roll call vote was taken. Voting aye: Anderson, Christie, Criswell, Faltys, Judkins, Newson, Pettigrew, Rowland (8). Voting nay: None (0). Absent: Casement (1). Motion carried.

12:57 p.m. - Johnson departed the meeting

5. APPLICATION REVIEW AND RECOMMENDATIONS – OPEN SESSION

a. Initial Licensure/Reinstatement/Convictions/Administrative Penalties

Diane Zabokrtsky – Cosmetologist Reinstatement

MOTION: Judkins moved, seconded by Rowland, to recommend offering a probationary license with a 6 month probation, to include the standard terms and conditions and the following: jurisprudence examination. A roll call vote was taken. Voting aye: Anderson, Christie, Criswell, Faltys, Judkins, Newson, Pettigrew, Rowland (8). Voting nay: None (0). Abstain: None (0). Absent: Casement (1). Motion carried.

Brittnee Hauver - Cosmetologist

MOTION: Newson moved, seconded by Christie, to recommend issuance of the license with no terms or conditions. A roll call vote was taken. Voting aye: Anderson, Christie, Criswell, Faltys, Judkins, Newson, Pettigrew, Rowland (8). Voting nay: None (0). Abstain: None (0). Absent: Casement (1). Motion carried.

Alyssa DiGiacomo - Cosmetologist

MOTION: Criswell moved, seconded by Rowland, to defer the application and request additional information. A roll call vote was taken. Voting aye: Anderson, Christie, Criswell, Faltys, Judkins, Newson, Pettigrew, Rowland (8). Voting nay: None (0). Abstain: None (0). Absent: Casement (1). Motion carried.

Tyler Keup – Tattoo Artist

MOTION: Newson moved, seconded by Faltys, to recommend offering a probationary license with 4 year probation, to include the standard terms and conditions and the following: quarterly employer reports, no solo practice, follow recommendations of the evaluation, proof of successful completion of court probation. A roll call vote was taken. Voting aye: Anderson, Christie, Criswell, Faltys, Judkins, Newson, Pettigrew, Rowland (8). Voting nay: None (0). Abstain: None (0). Absent: Casement (1). Motion carried.

Evelyn Ornelas - Cosmetologist

MOTION: Judkins moved, seconded by Rowland, to recommend issuance of the license with no terms or conditions. A roll call vote was taken. Voting aye: Anderson, Christie, Criswell, Faltys, Judkins, Newson, Pettigrew, Rowland (8). Voting nay: None (0). Abstain: None (0). Absent: Casement (1). Motion carried.

Amber Sturdivant – Permanent Color Technician

MOTION: Anderson moved, seconded by Criswell, to recommend issuance of the license with no terms or conditions. A roll call vote was taken. Voting aye: Anderson, Christie, Criswell, Faltys, Judkins, Newson, Pettigrew, Rowland (8). Voting nay: None (0). Abstain: None (0). Absent: Casement (1). Motion carried.

Myra Schardt – Cosmetologist Reinstatement

MOTION: Anderson moved, seconded by Rowland, to recommend offering a probationary license with a 6 month probation, to include the standard terms and conditions and the following: jurisprudence examination. A roll call vote was taken. Voting aye: Anderson, Christie, Criswell, Faltys, Judkins, Newson, Pettigrew, Rowland (8). Voting nay: None (0). Abstain: None (0). Absent: Casement (1). Motion carried.

Andrew Aguilar – Tattoo Artist

MOTION: Judkins moved, seconded by Faltys, to recommend offering a probationary license with 4 year probation, to include the standard terms and conditions and the following: quarterly employer reports, no solo practice, proof of successful completion of court parole. A roll call vote was taken. Voting aye: Anderson, Christie, Criswell, Faltys, Judkins, Newson, Pettigrew, Rowland (8). Voting nay: None (0). Abstain: None (0). Absent: Casement (1). Motion carried.

Donna Wolff – Cosmetologist Reinstatement

MOTION: Judkins moved, seconded by Faltys, to recommend offering a probationary license with a 6 month probation, to include the standard terms and conditions and the following: jurisprudence examination. A roll call vote was taken. Voting aye: Anderson, Christie, Criswell, Faltys, Judkins, Newson, Pettigrew, Rowland (8). Voting nay: None (0). Abstain: None (0). Absent: Casement (1). Motion carried.

Miya Hicks - Cosmetologist

MOTION: Anderson moved, seconded by Newson, to recommend issuance of the license with no terms or conditions. A roll call vote was taken. Voting aye: Anderson, Christie, Criswell, Faltys, Judkins, Newson, Pettigrew, Rowland (8). Voting nay: None (0). Abstain: None (0). Absent: Casement (1). Motion carried.

Nicholas Lawson – Tattoo Artist

MOTION: Faltys moved, seconded by Newson, to recommend offering a probationary license with a 6 month probation, to include the standard terms and conditions and the following: employer quarterly reports, proof of successful completion of court probation. A roll call vote was taken. Voting aye: Anderson, Christie, Criswell, Faltys, Judkins, Newson, Pettigrew, Rowland (8). Voting nay: None (0). Abstain: None (0). Absent: Casement (1). Motion carried.

Stacey Mallot – Cosmetologist Reinstatement from Discipline (Suspension)

MOTION: Anderson moved, seconded by Newson, to recommend reinstatement of the license based on being in compliance with the Order and has not practiced since suspended. A roll call vote was taken. Voting aye: Anderson, Christie, Criswell, Faltys, Judkins, Newson, Pettigrew, Rowland (8). Voting nay: None (0). Abstain: None (0). Absent: Casement (1). Motion carried.

D'Ne Brodigan – Esthetician Reinstatement from Discipline (Revocation)

MOTION: Christie moved, seconded by Anderson, to deny reinstatement of the license based on failure to provide sufficient evidence to support reinstatement. A roll call vote was taken. Voting aye: Anderson, Christie, Criswell, Faltys, Judkins, Newson, Pettigrew, Rowland (8). Voting nay: None (0). Abstain: None (0). Absent: Casement (1). Motion carried.

Michelle Jensen – Cosmetology Reinstatement from Discipline (Suspension)

MOTION: Anderson moved, seconded by Newson, to recommend reinstatement on probation with the same terms and conditions as the offer made in January 2016 based on no further convictions. A roll call vote was taken. Voting aye: Anderson, Christie, Criswell, Faltys, Judkins, Newson, Pettigrew, Rowland (8). Voting nay: None (0). Abstain: None (0). Absent: Casement (1). Motion carried.

Brandon Drown - Cosmetologist

MOTION: Anderson moved, seconded by Criswell, to recommend issuance of the license when pass the examination. A roll call vote was taken. Voting aye: Anderson, Christie, Criswell, Faltys, Judkins, Newson, Pettigrew, Rowland (8). Voting nay: None (0). Abstain: None (0). Absent: Casement (1). Motion carried.

6. NEW BUSINESS**a. 2017 Legislative Session**

- **Manicuring/Pedicuring Proposal**

Rowland stated she had forwarded the Board letter and a letter she wrote to 5 Senators. She indicated she would advise the Board if a Senator proposes a bill.

- **Other Proposed Changes to the Statutes**

Chiles stated she had not heard if a Senator will be proposing a bill to address the proposed changes that were discussed in previous minutes.

Chiles stated she has been getting inquiries about the hours and credits required for licensure. She commented there is a movement to lower the hours for cosmetology and esthetics licensing. There is also a group looking at many professions that have hours that fall outside of the average of other states. Chiles stated that for cosmetology 32 of 50 states have 1500 hours or less; 34 out of 50 states have no cosmetology continuing education requirements; and instructor hours average 500-600 hours. Chiles stated that one of the Governor's priorities is to reduce regulatory burden.

Newson suggested if hours were reduced, then cosmetologists should only do cosmetology and not the other areas such as nail technology. He stated they could get the hours outside of the regular cosmetology program if desired. It was discussed that Newson's suggestions would require a statute change. There was extensive discussion relating to how schools would adjust to a change in hours and how they would or the board would decide how many hours to teach and in what areas if hours are reduced. Chiles suggested that the Board review the regulations to determine what subject areas they believe were crucial to be taught in school.

1:33 p.m. - Christie departed meeting

b. Approval of Method of Noticing Meetings Agendas

Chiles stated agendas are currently placed on the website, posted on the bulletin board in the Licensure Unit, and sent to anyone who requests a copy.

MOTION: Anderson moved, seconded by Rowland, to notice meeting agendas the same as in the past. A roll call vote was taken. Voting aye: Anderson, Criswell, Faltys, Judkins, Newson, Pettigrew, Rowland (7). Voting nay: None (0). Abstain: None (0). Absent: Casement, Christie (2). Motion carried.

c. Body Art, Cosmetology, Electrology, Esthetics, Nail Technology, Indoor Tanning Facilities

Body Art – Judkins said she had received a question about consuming alcohol during a body art procedure as they read the regulations as saying they could. Chiles stated the regulations prohibit consuming alcohol during a procedure.

Regulations: 46-024.01 While in the facility, the owner or body artists **must not engage in or allow any other person**, to engage in any of the following activities:

3. Using, consuming, serving, or in any manner possessing or distributing intoxicating beverages or controlled substances upon its premises during the hours the facility is open to the public and/or any procedures are being performed.

Cosmetology – Anderson asked if there could be mobile salons. Chiles responded that the statutes do not allow for mobile salons.

Esthetics – Criswell stated she read an article that said Illinois cosmetology schools are teaching about noticing sexual abuse. Also, she heard something about convictions in Nebraska being sealed after the person did time. Upon reviewing the web, it refers to being acquitted or charges being dropped. Criswell stated there were several big shows around the country.

Nail Technology – Rowland stated she had no additional information to report.

Indoor Tanning Facilities – Pettigrew stated facilities were waiting to see what happens with the new administration.

7. REPORTS/UPDATES

a. National-Interstate Council of State Boards of Cosmetology

Faltys stated she had heard nothing about a regional meeting.

b. Disciplinary/Non-Disciplinary Action Report

Chiles distributed the report for 2016.

c. Statistics: Examinations / Renewal / Licensing / Administrative Penalties

Chiles reported the following examination results for 2016:

Cosmetology

Cosmetology – 317 pass, 78 fail
 Esthetics – 76 pass, 22 fail
 Cosmetology Instructor – 10 pass
 Esthetics Instructor – 2 pass
 Jurisprudence, probation – 11 pass, 3 fail
 Jurisprudence, order – 10 pass, 10 fail
 Jurisprudence, CEU – 8 pass, 2 fail

Nail Technology

Nail Technician – 47 pass, 30 fail
 Nail Technician Instructor – 2 pass
 Jurisprudence, probation – 2 pass

The statistics were distributed as follows:

Licensure Numbers:

Cosmetologist	7472
Cosmetology Instructor	139
Cosmetology Salon	2108
Cosmetology Salon Consideration Certificate	24
Electrologist	17
Esthetician	738
Esthetician Instructor	18
Esthetics Salon	57
Esthetics Salon Consideration Certificate	1
Home Service Permit	3
Satellite Classroom	1
School of Cosmetology	17
Temporary Cosmetology Practitioner	19
Temporary Esthetician Practitioner	0

Body Art Facility	160
Body Brander	2
Body Piercer	92
Permanent Color Technician	55
Tattoo Artist	335
Nail Technician	1260
Nail Technology Home Service Permit	1
Nail Technology Instructor	13
Nail Technology Salons	189
Nail Technology Salon Consideration Cert.	4
Nail Technology Schools	6

Chiles stated that cosmetology renewal processing has been completed. She commented that all staff pitched in and worked on the renewals which was a great help and was appreciated. Chiles stated that as of 1-4-17, 1973 cosmetologists had not renewed but reinstatement were being received in fairly large numbers. Chiles stated there had been 12 cosmetologists with outstanding administrative penalties who had been sent letters in the summer advising them that they needed to pay the administrative penalty in order to renew. She commented some paid the penalty but some did not; those who did not were not eligible for renewal.

Pettigrew commented that trainers are being advised that some licensees are marking they did complete the CE for renewal when in fact that are not doing attending any continuing education classes. It was suggested the names of those individuals be forwarded to the Department.

Chiles stated that, since the cosmetology expiration date has passed, the next step would be to initiate the audit of continuing education compliance. She asked what percentage the Board would like audited. Initially, 5% was suggested but then the Board recommended 2% considering the number that would represent and staff time.

8. ELECTION OF OFFICERS AND APPOINTMENTS

a. Officer Elections (Chair, Vice-Chair, Secretary)

MOTION: Faltys moved, seconded by Anderson, to maintain the same slate of officers. A roll call vote was taken. Voting aye: Anderson, Criswell, Faltys, Judkins, Newson, Pettigrew, Rowland (7). Voting nay: None (0). Abstain: None (0). Absent: Casement, Christie (2). Motion carried.

b. Appointments: Complaint Consultant & Continuing Education Reviewer and Body Art, Cosmetology, Electrology, Esthetics, Nail Technology and Indoor Tanning Facilities

Newson was appointed as the complaint consultant and Faltys as the continuing education reviewer. The following were appointed as reporters in the following areas:

Body Art – Judkins
 Cosmetology – Newson
 Electrology – Criswell
 Esthetics – Criswell
 Nail Technology – Pettigrew
 Indoor Tanning Facilities - Pettigrew

9. ADJOURNMENT

MOTION: Anderson moved, seconded by Judkins, to adjourn. A roll call vote was taken. Voting aye: Anderson, Criswell, Faltys, Judkins, Newson, Pettigrew, Rowland (7). Voting nay: None (0). Abstain: None (0). Absent: Casement, Christie (2). Motion carried.

Pettigrew declared the meeting adjourned at 2:17 p.m.

Respectfully submitted,

Vicki Criswell, Secretary
Board of Cosmetology, Electrology, Esthetics, Nail Technology, and Body Art

Summarized by Nancy Herdman, Health Licensing Coordinator